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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 GERARDO DANESTA-DIAZ and
AUGUSTIN GUTIERREZ-VALENCIA,

12 Defendants.

CASE NO. CR15-5365BHS

ORDER

13 This matter comes before the Court on the Defendant Gerardo Danesta-Diaz' unopposed
14 Motion and Affidavit for Order Continuing Trial and Extending Pretrial Motions Cutoff Date.
15 Defendant Augustin Gutierrez-Valencia joins in the motion and both defendants have filed
16 appropriate speedy trial waivers. The Court, having considered the motion, makes the following
17 findings of fact and conclusions of law:

18 1. Defense counsel Wayne Fricke has been involved in two, lengthy trials since being
19 appointed to represent Mr. Danesta-Diaz. The defense needs additional time to effectively
20 review the discovery provided to date to prepare pretrial motions and for trial itself.

21 2. The defense needs additional time to explore all relevant issues and defenses
22 applicable to the case, which would make it unreasonable to expect adequate preparation for

1 pretrial proceedings or for trial itself within the time limits established by the Speedy Trial Act
2 and currently set for this case. 18 U.S.C. § 3161(h)(7)(B)(ii).

3 3. Taking into account the exercise of due diligence, a continuance is necessary to allow
4 the defendant the reasonable time for effective preparation his defense, to explore resolution of
5 this case before trial and to ensure continuity of defense counsel. 18 U.S.C. § 3161(h)(7)(B)(iv).

6 4. Proceeding to trial absent adequate time for the defense to prepare would result in a
7 miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(i).

8 5. The ends of justice served by granting this continuance outweigh the best interests of
9 the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A) and (B).

10 6. Defendant Gerardo Danesta-Diaz waived speedy trial through November 15, 2015;
11 Defendant Augustin Gutierrez-Valencia waived speedy trial through December 15, 2015.

12 NOW, THEREFORE, IT IS HEREBY ORDERED

13 That the trial date is continued from September 29, 2015 to November 3, 2015 at 9:00
14 a.m. Pretrial Conference is set for October 26, 2015 at 1:30 p.m. Pretrial motions are due by
15 September 30, 2015. The resulting period of delay from September 9, 2015 to November 3,
2015 is hereby excluded for speedy trial purposes under 18 U.S.C. § 3161(h)(7)(A) and (B)

16 Dated this 15th day of September, 2015.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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